

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES,)	CASE NO. 4:05CR202
)	(defendant #12)
Plaintiff,)	
)	JUDGE DAVID D. DOWD, Jr.
v.)	Magistrate Judge George J. Limbert
)	
DEMITRIUS MORRIS,)	
)	<u>REPORT & RECOMMENDATION</u>
Defendant.)	<u>OF MAGISTRATE JUDGE</u>
)	

This matter was referred to the undersigned in order to conduct appropriate proceedings, including a preliminary exam, a supervised release hearing, and all matters in accordance with Criminal Rule 32.1, except for sentencing. ECF Dkt. #265. On January 4, 2008, the undersigned conducted proceedings regarding the revocation of supervised release. At that hearing, the Government was represented by Assistant United States Attorney Linda H. Barr on behalf of Assistant United States Attorney Edward F. Feran, and Defendant was represented by Charles E. Fleming.

On December 5, 2007, a United States Probation Officer filed a Violation Report requesting an emergency arrest warrant because Defendant's whereabouts were unknown to the Probation Officer. On December 19, 2007, the Probation Officer filed a Superseding Violation Report alleging that Defendant had committed the following Supervised Release Violations:

1. **Failure to Notify the Probation Officer 10 days prior to any Change in Residence or Employment** - Mr. Morris was to complete a six month CCC placement as ordered by the Court. On 12/03/2007, the offender absconded from the CCC facility without notifying the probation office of his intended whereabouts. He did fail to return to the CCC.
2. **New Law Violation** - During his arrest, on 12/17/2007, on the Federal arrest warrant issued by Your Honor, illegal drugs were found in the offender's possession. The offender has been charged with possession of drugs-cocaine in the Youngstown Municipal Court under case number 07CRA03953Y.

3. **Unauthorized Use of Drugs** - On 11/20/2007, Mr. Morris tested positive for marijuana use. The urine specimen was confirmed positive by Kroll Laboratories on 12/06/2007.
4. **Unauthorized Use of Drugs** - On 11/26/2007, Mr. Morris tested positive for marijuana use. The urine specimen was confirmed positive by Kroll Laboratories on 12/08/2007.
5. **Unauthorized Use of Drugs** - On 11/29/2007, Mr. Morris tested positive for marijuana use. The urine specimen was confirmed positive by Kroll Laboratories on 12/06/2007.

Superseding Violation Report at 1.

At the hearing, Defendant admitted to committing Violations # 1, 3, 4, and 5 as alleged in the Superseding Violation Report. The Government agreed to withdraw alleged violation #2. The Parties agreed that Violations # 1, 3, 4, and 5 constitute Grade C violations.

CONCLUSION AND RECOMMENDATION

Based upon the Violation Report and Defendant's admissions, the undersigned finds that Defendant has violated his supervised release conditions by failing to notify the Probation Officer 10 days prior to a change in residence or employment (Violation #1) and by using unauthorized drugs, as evidenced by his urine samples collected on 11/20/2007 (Violation #3), 11/26/2007 (Violation #4), and 11/29/2007 (Violation #5) testing positive for marijuana. Consequently, the undersigned recommends that the Court find that Defendant has violated the terms of his supervised release.

Dated: January 4, 2008

/s/George J. Limbert
George J. Limbert
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of service of this notice. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).